

## **Title 39: Public Records Law**



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**39-101. Permanent public records; quality; storage; violation; classification**

- A. Permanent public records of the state, a county, city or town, or other political subdivision of the state, shall be transcribed or kept on paper or other material which is of durable or permanent quality and which conforms to standards established by the director of the department of library, archives and public records.
  - B. Permanent public records transcribed or kept as provided in subsection A shall be stored and maintained according to standards for the storage of permanent public records established by the director of the department of library, archives and public records.
  - C. A public officer charged with transcribing or keeping such public records who violates this section is guilty of a class 2 misdemeanor.
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**39-102. Annual report; copies**

Unless otherwise specifically required by law, each agency, board, commission and department which prepares an annual report of its activities shall prepare and distribute as provided by law copies of such annual report on twenty pound bond paper printed with black ink except that the cover and back pages may be of sixty-five pound or less cover paper.

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**39-103. Size of public records; exemptions**

- A. All public records of this state or a political subdivision of this state created on paper, regardless of weight or composition, shall conform to standard letter size of eight and one-half inches by eleven inches, within standard paper manufacturing tolerances.
  - B. This section does not apply to public records smaller than eight and one-half inches by eleven inches, public records otherwise required by law to be of a different size, engineering drawings, architectural drawings, maps, computer generated printout, output from test measurement and diagnostic equipment, machine generated paper tapes and public records otherwise exempt by law. Upon written application the director of the department of library, archives and public records may approve additional exemptions from this section if based upon such application the director finds that the cost of producing a particular type of public record in accordance with subsection A is so great as to not be in the best interests of this state.
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**39-121. Inspection of public records**

Public records and other matters in the office of any officer at all times during office hours shall be open to inspection by any person.

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### **39-121.01 . Copies; printouts or photographs of public records**

A. In this article, unless the context otherwise requires:

1. "Officer" means any person elected or appointed to hold any elective or appointive office of any public body and any chief administrative officer, head, director, superintendent or chairman of any public body.
2. "Public body" means the state, any county, city, town, school district, political subdivision or tax-supported district in the state, any branch, department, board, bureau, commission, council or committee of the foregoing, and any public organization or agency, supported in whole or in part by funds from the state or any political subdivision thereof, or expending funds provided by the state or any political subdivision thereof.

B. All officers and public bodies shall maintain all records reasonably necessary or appropriate to maintain an accurate knowledge of their official activities and of any of their activities which are supported by funds from the state or any political subdivision thereof.

C. Each public body shall be responsible for the preservation, maintenance and care of that body's public records and each officer shall be responsible for the preservation, maintenance and care of that officer's public records. It shall be the duty of each such body to carefully secure, protect and preserve public records from deterioration, mutilation, loss or destruction, unless disposed of pursuant to sections 41-1344, 41-1347 and 41-1351.

D. Subject to the provisions of section 39-121.03:

1. Any person may request to examine or be furnished copies, printouts or photographs of any public record during regular office hours. The custodian of such records shall furnish such copies, printouts or photographs and may charge a fee if the facilities are available, except that public records for purposes listed in section 39-122 shall be furnished without charge.
2. If the custodian of a public record does not have facilities for making copies, printouts or photographs of a public record which a person has a right to inspect, such person shall be granted access to the public record for the purpose of making copies, printouts or photographs. The copies, printouts or photographs shall be made while the public record is in the possession, custody and control of the custodian thereof and shall be subject to the supervision of such custodian.

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### **39-121.02 . Action upon denial of access; expenses and attorney fees; damages**

A. Any person who has requested to examine or copy public records pursuant to the provisions of this article, and who has been denied access to or the right to copy such records, may appeal the denial through a special action in the superior court, pursuant to the rules of procedure for special actions against the officer or public body.

- B. If the court determines that a person was wrongfully denied access to or the right to copy a public record and if the court finds that the custodian of such public record acted in bad faith, or in an arbitrary or capricious manner, the superior court may award to the petitioner legal costs, including reasonable attorney fees, as determined by the court.
  - C. Any person who is wrongfully denied access to public records pursuant to the provisions of this article shall have a cause of action against the officer or public body for any damages resulting therefrom.
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**39-121.03 . Request for copies, printouts or photographs; statement of purpose; commercial purpose as abuse of public record; determination by governor; civil penalty; definition**

- A. A person requesting copies, printouts or photographs of public records for a commercial purpose shall, upon making such a request, provide a certified statement setting forth the commercial purpose for which the copies, printouts or photographs will be used. Upon being furnished the verified statement the custodian of such records may furnish reproductions, the charge for which shall include the following:
  - 1. A portion of the cost to the state for obtaining the original or copies of the documents, printouts or photographs.
  - 2. A reasonable fee for the cost of time, equipment and personnel in producing such reproduction.
  - 3. The value of the reproduction on the commercial market.
- B. If the custodian of a public record determines that the commercial purpose stated in the verified statement is a misuse of public records or is an abuse of the right to receive public records, the custodian may apply to the governor requesting that the governor by executive order prohibit the furnishing of copies, printouts or photographs for such commercial purpose. The governor, upon application from a custodian of public records, shall determine whether the commercial purpose is a misuse or an abuse of the public record. If the governor determines that the public record shall not be provided for such commercial purpose he shall issue an executive order prohibiting the providing of such public records for such commercial purpose. If no order is issued within thirty days of the date of application, the custodian of public records shall provide such copies, printouts or photographs upon being paid the fee determined pursuant to subsection A of this section.
- C. A person who obtains public records for a commercial purpose without indicating the commercial purpose or who obtains a public record for a noncommercial purpose and uses or knowingly allows the use of such public record for a commercial purpose or who obtains a public record for a commercial purpose and uses or knowingly allows the use of such public record for a different commercial purpose or who obtains a public record from anyone other than the custodian of such records and uses them for a commercial purpose shall in addition to other penalties be liable to the state or the political subdivision from which the public record was obtained for damages in the amount of three times the amount which would have been charged for the public record had the commercial purpose been stated plus costs and reasonable attorneys'

fees or shall be liable to the state or the political subdivision for the amount of three times the actual damages if it can be shown that the public record would not have been provided had the commercial purpose of actual use been stated at the time of obtaining the records.

- D. As used in this section "commercial purpose" means the use of a public record for the purpose of sale or resale or for the purpose of producing a document containing all or part of the copy, printout or photograph for sale or the obtaining of names and addresses from such public records for the purpose of solicitation or the sale of such names and addresses to another for the purpose of solicitation or for any purpose in which the purchaser can reasonably anticipate the receipt of monetary gain from the direct or indirect use of such public record. Commercial purpose does not mean the use of a public record as evidence or as research for evidence in an action in a judicial or quasi-judicial body of this state or a political subdivision of this state.

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**39-122 . Free searches for and copies of public records to be used in claims against United States; liability for noncompliance**

- A. No state, county or city, or any officer or board thereof shall demand or receive a fee or compensation for issuing certified copies of public records or for making search for them, when they are to be used in connection with a claim for a pension, allotment, allowance, compensation, insurance or other benefits which is to be presented to the United States or a bureau or department thereof.
- B. Notaries public shall not charge for an acknowledgment to a document which is to be so filed or presented.
- C. The services specified in subsections A and B shall be rendered on request of an official of the United States, a claimant, his guardian or attorney. For each failure or refusal so to do, the officer so failing shall be liable on his official bond.

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**39-123 . Information identifying a peace officer; confidentiality**

- A. Nothing in this chapter requires disclosure from a personnel file by a law enforcement agency or employing state or local governmental entity of the home address or home telephone number of a peace officer as defined in section 13-105. This exemption also applies to a photograph of a peace officer who is serving in an undercover capacity or who is scheduled to serve in an undercover capacity within sixty days.
- B. The agency or governmental entity may release the information in subsection A of this section only if either:
1. The peace officer consents in writing to the release.
  2. The custodian of records of the agency or governmental entity determines that release of the information does not create a reasonable risk of physical injury to the peace officer or his immediate family or damage to the property of the peace officer or his immediate family.

- C. This section does not apply to a certified peace officer who is no longer employed as a peace officer by a state or local government entity.
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**39-124. Releasing information identifying a peace officer; violations; classification**

- A. Any person who is employed by a state or local government entity and who, in violation of section 39-123, knowingly releases the home address or home telephone number of a peace officer as defined in section 13-105 with the intent to hinder an investigation, cause physical injury to a peace officer or his immediate family or damage to the property of a peace officer or his immediate family is guilty of a class 6 felony.
- B. Any person who is employed by a state or local government entity and who, in violation of section 39-123, knowingly releases a photograph of a peace officer who is serving in an undercover capacity or who is scheduled to serve in an undercover capacity within sixty days with the intent to hinder an investigation, cause physical injury to a peace officer or his immediate family or damage to the property of a peace officer or his immediate family is guilty of a class 6 felony.
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**39-125. Information relating to location of archaeological discoveries and places or objects included or eligible for inclusion on the Arizona register of historic places; confidentiality**

Nothing in this chapter requires the disclosure of public records or other matters in the office of any officer that relate to the location of archaeological discoveries as described in section 41-841 or 41-844 or places or objects that are included on or may qualify for inclusion on the Arizona register of historic places as described in section 41-511.04, subsection A, paragraph 9. An officer may decline to release this information if the officer determines that the release of the information creates a reasonable risk of vandalism, theft or other damage to the archaeological discoveries or the places or objects that are included on or may qualify for inclusion on the register. In making a decision to disclose public records pursuant to this section, an officer may consult with the director of the Arizona state museum or the state historic preservation officer.

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**39-141. Proof of certain lost or destroyed documents or instruments**

Any deed, bond, bill of sale, mortgage, deed of trust, power of attorney or conveyance which is required or permitted by law to be acknowledged or recorded which has been so acknowledged or recorded, or any judgment, order or decree of a court of record in this state or the record or minute containing such judgment, which is lost or destroyed, may be supplied by parol proof of its contents.

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**39-142. Action for restoration and substitution of lost or destroyed documents**

Upon loss or destruction of an instrument as indicated in section 39-141, a person interested therein may bring an action in the superior court of the county where the loss or destruction occurred for

restoration and substitution of such instrument against the grantor in a deed, or the parties interested in the instrument, or the parties who were interested adversely to plaintiff at the time of the rendition of judgment, or who are then adversely interested, or the heirs and legal representatives of such parties.

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**39-143 . Judgment of restoration; recording of judgment; judgment as substitute for original instrument**

- A. If upon the trial of the action provided for in section 39-142, the court finds that such instrument existed, and has been lost or destroyed and determines the contents thereof, it shall enter a judgment containing the finding and a description of the lost instrument and contents thereof.
  - B. A certified copy of the judgment may be recorded, and shall be substituted for and have the same force and effect as the original instrument.
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**39-144 . Recording of certified copies of lost or destroyed records or records of a former county**

Certified copies from a record of a county, the record of which has been lost or destroyed, and certified copies from records of the county from which a new county was created, may be recorded in such county when the loss of the original has been first established.

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**39-145 . Re-recording of original papers when record destroyed**

When the original papers have been preserved but the record thereof has been lost or destroyed, they may again be recorded within four years from the loss or destruction of such record. The last registration shall have force and effect from the date of the original registration.

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**39-161 . Presentment of false instrument for filing; classification**

A person who acknowledges, certifies, notarizes, procures or offers to be filed, registered or recorded in a public office in this state an instrument he knows to be false or forged, which, if genuine, could be filed, registered or recorded under any law of this state or the United States, or in compliance with established procedure is guilty of a class 6 felony. As used in this section "instrument" includes a written instrument as defined in section 13-2001.

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